

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

W.C.,

Plaintiff,

-against-

MODESTO FONTANEZ,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/26/2021

20-cv-5765 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

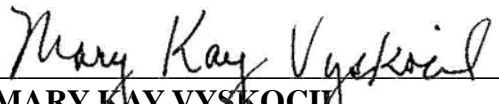
On February 26, 2021, the Court held a default judgment hearing in this matter. For all of the reasons the Court explained on the record at the hearing, Plaintiff's motion for a default judgment is DENIED without prejudice to renewal if Defendant fails to appear after Plaintiff files, and serves on Defendant, an amended complaint.

IT IS HEREBY ORDERED that Plaintiff shall file any amended complaint by March 29, 2021. Plaintiff must file the amended complaint in his own name, and not under a pseudonym. *See* Fed. R. Civ. P. 10(a) (a "complaint must name all the parties"); *Doe v. Skyline Automobiles Inc.*, 375 F. Supp. 3d 401 (S.D.N.Y. 2019). Plaintiff must properly allege diversity jurisdiction. *See Malik v. Meissner*, 82 F.3d 560, 562 (2d Cir. 1996) (Plaintiff bears the burden of establishing subject-matter jurisdiction); *Pacho v. Enter. Rent-A-Car*, 510 F. Supp. 2d 331, 333 (S.D.N.Y. 2007) (diversity of citizenship, for purposes of diversity jurisdiction under 28 U.S.C. § 1332, is determined by domicile). Plaintiff must properly allege venue. Plaintiff must also identify his causes of action and include factual allegations in his pleading. *See In re Industrial Diamonds Antitrust Litig.*, 119 F. Supp. 2d 418, 420 (S.D.N.Y. 2000) (on a default judgment motion, a district court must still "consider whether the unchallenged facts constitute a legitimate cause of action, since a party in default does not admit conclusions of law").

The Clerk of Court is respectfully directed to terminate the motion pending at docket entry number 11.

SO ORDERED.

Date: February 26, 2021
New York, NY


MARY KAY VYSKOCIL
United States District Judge